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Attorneys for Defendant  
Google Inc.

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

VICKI VAN VALIN, on behalf of herself  
and all others similarly situated within the  
state of Oregon; NEIL MERTZ on behalf  
of himself and all others similarly situated  
within the state of Washington,

Plaintiffs,

v.

GOOGLE INC., a Delaware corporation,

Defendant.

No. CV 10-557 ST

**DEFENDANT GOOGLE'S RESPONSE  
TO PLAINTIFFS' MOTION FOR  
TEMPORARY RESTRAINING ORDER**

One week ago, on May 17, Plaintiffs filed this suit, which deals with "payload data" mistakenly collected from open Wi-Fi connections. Complaint (Dkt No. 1) ¶ 11. Overreacting to reports that some foreign authorities were asking Google to delete data relating to their citizens, Plaintiffs that same day filed a motion seeking a temporary restraining order "enjoining Google, Inc. [sic] from destroying or altering any of the payload data it has collected for any person or entity within the states of Oregon or Washington." Motion and Memorandum in

1- GOOGLE TRO RESPONSE

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Support of Temporary Restraining Order and Preliminary Injunction (Dkt. No. 3) at 9 ("Conclusion"). Plaintiffs' first proposed order sought only that relief.

By the time the suit and the motion were filed, Google had already retained an expert consultant to secure payload data for the United States and, separately, for the rest of the world. Declaration of Alexander Stamos ¶ 4. Data in Google servers was promptly encrypted and secured, even before the TRO motion was first set to be heard on May 19. *Id.* Counsel for Google contacted Plaintiffs' counsel and offered to agree to preservation of the United States data. Instead of accepting Google's representation that it was not taking the steps that Plaintiffs professed to fear with respect to United States data, Plaintiffs escalated their demands to seek additional relief not specified in or justified by their Motion and Memorandum. The hearing was postponed until today, and ultimately Google determined not to accede to Plaintiffs' new and unsupported demands.

Google has no intention of violating its document preservation obligations, and has already taken steps going well beyond what is required. The Court should deny Plaintiffs' motion.

DATED: May 24, 2010

**PERKINS COIE LLP**

By: /s/ Robert L. Aldisert

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